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# In the Supreme Court of the United States

OCTOBER TERM, 1959

No. 200

In the Matter of the Estate of JANET M. PECK,

*Deceased.*

AARON M. SARGENT, CORNELIA M. SARGENT, MADELYN GEORGIAN, Guardian ad Litem of HELEN M. SARGENT, JR., FRANK M. HOWELL, JR., ORRIN P. HOWELL, MARIETTA GANN BUNDY, ELIZABETH GANN HANDEL, LOUISE FLINN, FRED HOWELL, CHARLOTTE MORE MELONEY, FRANK MORE and MARGARET MORE WHITE,

*Petitioners,*

vs.

THE BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY,

*Respondent.*

## Motion for Order Granting Hearing, With Oral Argument, on Petition for Rehearing in Bank

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*To the Honorable Earl Warren, Chief Justice, and to the Honorable Associate Justices of the Supreme Court of the United States:*

Pursuant to Rule 35, Petitioners move and apply to this Court and the several Justices thereof, for an order granting the following relief:

*First:* A hearing with oral argument on the Petition for a Rehearing in Bank, filed herewith;

*Second:* Oral argument addressed to the public importance of the following questions raised herein:

(a) Significance of the Rule of Constitutional Supremacy established by Article VI of the Federal Constitution and the decisions of this Court in *Marbury v. Madison*, 1 Cranch. 137, and *McCulloch v. Maryland*, 4 Wheat. 316;

(b) Duties and responsibilities imposed on the several Justices in their individual capacity by the oath prescribed in said Article VI;

(c) Power in the several Justices to require issuance of a writ in the absence of a majority vote;

(d) Importance of the questions stated in the Certiorari Petition and in paragraphs 8, 9 and 10, at page 30, of Petitioner's Reply Brief.

(e) Duty to grant certiorari, as of right, in a case where there has been a failure to provide a fair and adequate review in the appellate courts of a state.

*Third:* Entry of orders recording the action of the several Justices on this motion and on the Petition for a Rehearing in Bank, filed herewith;

*Fourth:* Oral argument on this motion, pursuant to subdivision 3 of Rule 35.

## FACTS RELIED ON IN SUPPORT OF MOTION

This motion is based on the record, the Petition for Writs of Certiorari, Petitioners' Reply Brief, and the Petition for Rehearing in Bank filed herewith.

## AUTHORITIES IN SUPPORT OF MOTION

The supremacy clause and oath provision in Article VI of the United States Constitution.

28 U.S.C.A. 1257, sub. 3, conferring jurisdiction on certiorari.

*Cohens v. Virginia*, 19 U.S. (6 Wheat.) 264, distinguishing between the constitutional mandate to exercise judicial power, and the discretionary prerogatives possessed by a legislative body.

*Smith v. Vulcan Iron Works*, 165 U.S. 518; *Boynton v. Hutchinson Gas*, No. 655 Oct. Term 1933 (Supreme Court Journal Jan. 22, 1934, p. 137), 291 U.S. 656.

"Jurisdiction of the Supreme Court of the United States," by Robertson and Kirkham, Sec. 286, p. 543.

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It is submitted that in view of the public importance of the questions here presented, oral argument should be allowed, and a full and complete record established.

Dated: November 4, 1959.

Respectfully submitted,

AARON M. SARGENT

*Attorney for Petitioners*